

**Notice of Allowability**

Application No.

09/743,417

Applicant(s)

WIESINGER, CLAUDIA

Examiner

Ronald W Leja

Art Unit

2836

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment of 10/20/03.
2. ☒ The allowed claim(s) is/are 1-8.
3. ☒ The drawings filed on 20 October 2003 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |  |
|--|--|
| 1 <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                   |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 6 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. <u>11/13/03</u> |
| 3 <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. <u>10/20/03</u> | 7 <input checked="" type="checkbox"/> Examiner's Amendment/Comment                           |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material                     | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance          |
|  | 9 <input type="checkbox"/> Other   |

*Ronald W Leja*  
Ronald W Leja  
Primary Examiner  
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An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

IN THE CLAIMS:

Claim 8, line 1, change "1" to -- 4 --.

Cancel Claim 9.

Authorization for this Examiner's Amendment was given in a telephone interview with Deborah S. Gladstein on 11/13/03.

The following is an Examiner's Statement of Reasons for Allowance: Applicant's arguments of 10/20/03 are convincing in that although a Figure within a Reference, i.e. Horvath et al. (4,689,453), (See Fig. 3) appears to illustrate a possibly constricted passageway between section (13) and terminal (2), lacking any support from the text for such a constriction, one cannot merely assume that the Figure is drawn to scale, and as such, the constricted passageway cannot be considered to be disclosed or taught by the Reference. Another example, is found within newly cited Sturzenegger et al. (4,471,187); the Reference is related to the submitted Reference, (EPO 0 075 668). Sturzenegger et al. teach the creating of resistance to gas flow in the breaker, but there does not appear to be any disclosure or teachings relating to the gas flow passage seen at the bottom of Figure 2 at the outlet-flow area of the quenching gas, formed by deflection surface (72) of base portion (60), as such, one cannot

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assume the Figure is drawn to scale and that such a passage was intended with a constricted passageway. Such an interpretation can only be considered as "hindsight" in view of the instant disclosure of the Application. Therefore, the claim combination found within Claim 1, which includes

a flow deflection device provided in an outlet-flow area of the quenching gas, in order to deflect the quenching gas flow through more than 90° radially outward;  
and a partition wall to separate the quenching gas flow before the deflection from the quenching gas flow after the deflection; wherein  
a nozzle body is arranged on the partition wall, and, together with the flow deflection device, forms a nozzle constriction.

is considered to be novel and unobvious in view of the Prior Art of Record.

Any comments considered necessary by Applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald W Leja whose telephone number is (703) 308-2008. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Sircus can be reached on (703) 308-


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3119. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

  
Ronald W Leja  
Primary Examiner  
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rwl  
November 13, 2003

